

The 28th October, 1994

No. 14/13/87-6Lab./770.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal cum-Labour Court, Ambala in respect of the disputes between the workman and the management of M/s The Shahabad Co-operative Sugar Mills Ltd, Shahabad Markanda versus Kali Ram :—

IN THE COURT OF SHRI S. B. BANSAL, ADDITIONAL DISTRICT & SESSIONS JUDGE)
PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 336 of 1988

WORKAMAN SHRI KALI RAM, SON OF SHRI RAIKHI RAM, VILLAGE GANDA PURA,
P. O. MUSTFABAD, DISTRICT AMBALA

and

THE MANAGEMENT THE SHAHABAD CO-OPERATIVE SUGAR MILL LTD., SHAHABAD
MARKANDA

Present :

W.R. Shri J. R. Sharma

M.R. Shri J. P. Singh

AWARD

In exercise of the powers conferred by clause (C) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act') the Governor of Haryana referred the following dispute between the workman Shri Kali Ram and the management M/s The Shahabad Co-operative Sugar Mills Ltd., Shahabad Markanda to this Court for adjudication,—vide Haryana Government notification bearing no. 34320-25, dated 26th July, 1988 :—

"Whether the services of Shri Kali Ram has been terminated or himself abandoned the job by absenteeism? If so, to what relief is he entitled?"

The workman raised an industrial dispute by serving a demand notice, dated 5th April, 1988 section 2-A of the Act. The Labour Officer-cum-Conciliation Officer took out the conciliation proceedings. The same however failed in necessitating the making of the present reference by the appropriate government.

On receipt of the reference notices were issued to the workman as well as the management. The workman appeared and submitted his claim statement in which he took up to the position that he rendered continuous services of more than 240 days in a calendar year as a fitter helper with effect from 16th July, 1985 to 28th January, 1988 and his service were terminated in violation of section 25-F of the Act.

The management although admit the employment of the workman pleaded that he participated in the illegal strike during the season 1987-88 and remained absent with effect from 28th January, 1988 for a period of more than ten days. Although,—vide letter dated 4th February, 1988 he was advised to join his duty, but failed to do so and after waiting for a long period his name was struck off from the muster roll on 26th February, 1988 as per provision of the Certificate Standing Orders. It was pleaded that the workman was on daily wages as a seasonal employee subject to availability of job and section 25-F could not be applicable.

The workman submitted replication dated 10th April, 1989 controverting the allegations made in the written statement, and reiterating those made in the claim statement.

On the pleadings of the parties, the following issues were settled for decision of the reference :—

(1) Whether the services of the workman were terminated or he relinquished the lien due to his absence? OPP

(2) If the issue No. 1 is proved in favour of workman, whether the impugned termination of services of workman is invalid? OPW

(3) Whether this claim application is not maintainable as alleged in preliminary objection?

(4) Relief.

Workman appeared as WW-1 and supported the averments of his claim statement. In rebuttal the management produced MW-1 Shri Vishav Nath who stated that application Ex. M-1 of the workman was received which was replied,—vide Ex. M-3 and the workman was advised to resume his duty but he failed to do so and therefore his name was struck off from the master-rolls,—vide Ex. Mx-2 and intimation of the same was sent to Labour Officer-cum-Conciliation Officer,—vide MW-2.

I have heard the representatives of the parties. My issue was findings are as under :—

Issue No. 1 to 3

All these issues are inter-linked and are being taken up together.

The workman during his own statement made during his cross-examination admitted the correctness of Ex.MX-2, Ex-MX-3, dated 4th February, 1988. According to him he was victimised for participation in the trade union activities. He produced Ex. WX copy of the newspaper cutting in support of his assertion. This fact has however not borne out from the documentary evidence on the file. No doubt the workman as produced application Ex. MW-1 but the management produced on the file Ex. MX-3 dated 4th February, 1988,—vide which he was advised to resume his duty. It is on the record that the workman failed to resume his duty and his name was struck off from the muster-roll,—vide Ex-MX-2 and intimation to this effect Ex. M-2 was sent to the Labour Officer-cum-Conciliation Officer, Kurukshetra Ex. MX copy of the Certified Standing Orders of the management produced on the file shows that as per clause 13 (iv) a workman who remain absent continuously for 10 days or more without making any application will be presumed to have left the service and his name will be struck off from the muster-roll of the factory which was done in the present case and as such the striking off the name of the workman from the muster-roll is perfectly in order and binding on him as standing orders. Ex. MX are binding on him. The findings on all these issues, therefore, stand returned against the workman and in favour of the management.

Relief.

In the end, it is held that the workman is not entitled to any relief.

The reference shall stand answered accordingly.

The 4th October, 1994.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer Labour Court, Ambala.

Endorsement No. 1635, dated the 6th October, 1994

Forwarded (four copies) to the Financial Commissioner, and Secretary to Government of Haryana Labour and Employment Departments, Chandigarh as required under Section 15 of Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court, Ambala.